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RCRA/Superfund/OUST Hotline Monthly Report Question

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4. Regulation of Nickel/Cadmium Batteries as Scrap Metal  
when Recycled

A facility owner/operator is interested in recycling nickel/cadmium batteries. The batteries are not being returned to the battery manufacturer per 40 CFR Section 261.6(a)(3)(ii) for regeneration. The owner/operator is going to recover the metal content from the nickel/cadmium plates. He believes then, that the plates should be regulated as scrap metal per 40 CFR Section 261.6(a)(3)(iv). If recycled, are these spent nickel/cadmium plates scrap metal?

The batteries themselves are spent materials and must be managed as such until the individual components (plates) can be separated out. The scrap metal portions would be regulated (i.e., exempted) as scrap metal while the rest of the battery would continue to be a spent material. This issue was addressed in an EPA letter dated October 20, 1986 to J. Mark Morford from Matt Straus. In this letter, the Agency discusses the regulatory status of certain materials--namely zinc bar, nickel plate, cadmium plate, and steel scrap that are removed from spent alkaline batteries. Specifically, the memo reads, "In particular, you request confirmation that the materials removed from these batteries are scrap metal, and that they are exempt from the hazardous waste regulations. As we discussed, scrap metal is currently exempt from the Federal hazardous waste regulations whether or not the scrap metal exhibits one or more of the hazardous waste characteristics ....I agree with you that these materials are scrap metal, and if recycled, would be exempt from regulation under the Federal hazardous waste rules."

Therefore, if recycled, the spent nickel/cadmium plates would be considered scrap metal. But, as the letter points out, if the nickel plate or cadmium plate was mixed with non-scrap metal material after removal from the battery, the mixture would not be considered scrap metal. In this case, the mixture would be subject to regulation if the mixture itself exhibits one or more of the characteristics of a hazardous waste.